

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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Jose Rojas-Guzman,
a/k/a Angel

Guadalupe Rojas-Guzman
a/k/a Jose Guadalupe Rojas-Guzman
a/k/a Angel

3:10-cr-00109-RCJ-WGC

ORDER

Petitioner,

V.

United States of America,

Respondent.

Presently before this Court is the Petitioner’s Motion to Set Aside Sentence (ECF No. 208), invoking 28 U.S.C. § 2255 (as this motion should have been filed separately, the Clerk of the Court has this motion also pending in Case Number: 3:18-cv-00574-RCJ). This is the Petitioner’s second motion under Section 2255 (*see* ECF No. 205). Both motions challenged the enhancement of his sentence under 21 U.S.C. § 851 for this case. This Court denied the Petitioner’s motion on its merits. (ECF No. 206.) Under Subsection H of the statute, the Ninth Circuit must certify that a second Section 2255 is based on either “newly discovered evidence” or a new retroactive rule of constitution law, before the Court will address the merits of the successive motion. The Petitioner has not received the required certification. Accordingly, the Court denies the Petitioner’s motion.

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CONCLUSION

IT IS HEREBY ORDERED that the Motion to Set Aside Sentence (ECF No. 208) is DENIED.

IT IS FURTHER ORDERED that the Clerk of the Court shall close this case.

IT IS FURTHER ORDERED that the Clerk of the Court shall close Case Number: 3:18-cv-00574-RCJ.

IT IS SO ORDERED.

Dated this 29th day of May 2019.

ROBERT C. JONES
United States District Judge